

American tobacco company.

Statement of Percival S. Hill, President.

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November 18, 1912.

STATEMENT OF PERCIVAL S. HILL

President of The American Tobacco Company

The decree of the Circuit Court of the United States for the Southern District of New York providing for the disintegration of The American Tobacco Company and its allied companies in accordance with the opinion of the Supreme Court rendered on May 29, 1911, was handed down on November 16, 1911. The disintegration immediately followed, and so has been in at least partial operation about a year, and in total operation since February 28, 1912.

A political campaign is ended in which there was some discussion of the effect of this decree, and such discussion, as well as other discussion, has shown that there is a very considerable misunderstanding of the situation.

The American Tobacco Company, following rigidly its policy of non-participation in political matters, has remained silent; but, now that the campaign is ended, there can be no reason urged against a frank statement of conditions.

THE DECREE ITSELF.

There has not been a full understanding of the drastic and radical nature of the decree entered on November 16, 1911. The Supreme Court had declared that a condition of monopoly and restraint of trade existed, and remanded the case to the Circuit Court of New York with instructions to bring about at a date not later than February 28, 1912, a termination of this condition of monopoly and restraint of trade, and a condition honestly in harmony with the law.

The American Tobacco Company was the parent and dominant figure of the so-called tobacco combination, and the Circuit Court, in carrying out the opinion of the Supreme Court, required The American Tobacco Company, as the very first step, to do a thing that has been lightly noted in the public discussions of the decree, but that was of tremendous importance, viz.:

The American Tobacco Company was required to distribute among its stockholders securities that had produced an annual income of more than \$9,000,000, and that therefore had a total value of substantially \$100,000,000.

These securities were selected by the Court itself, and this distribution took from The American Tobacco Company the very things, and almost all the things, that had excited comment and criticism—those things that were said to have given to The American Tobacco Company power over other manufacturers, such as (a) the control of or connection with the licorice business and (b) the tin foil business; (c) that instrument which had, justly or unjustly, excited the complaint of many manufacturers and dealers, the United Cigar Stores Company, which oper-

ates a chain of retail stores; (d) the foreign alliance, or connection with, The Imperial Tobacco Company, Limited, and British-American Tobacco Company, Limited; (e) all relation or alliance with the R. J. Reynolds Tobacco Company, a large and successful Southern manufacturer; (f) all relation to or alliance with American Snuff Company, a large snuff manufacturer.

Had The American Tobacco Company never possessed the things of which it thus denuded itself, it is likely that it would never have been proceeded against as a monopoly.

CREATION OF NEW COMPANIES TO PRODUCE A COMPETITIVE CONDITION.

The next step ordered by the Court was the disintegration of the very factories, brands and businesses that had theretofore been owned outright by The American Tobacco Company.

This was effected by the creation of two large manufacturing concerns called respectively Liggett & Myers Tobacco Company and P. Lorillard Company.

The American Tobacco Company made deeds and conveyances to these new companies of definite properties, brands and businesses, with definite statements made to the Court as to what these factories, brands and businesses had made during the year 1910, what their output of pounds was, and what their use of tobacco was.

The price to be paid by these companies was fixed by the Court, and The American Tobacco Company used the purchase price in the reduction of its own outstanding securities.

The Department of Justice, representing the Government, the prosecutor of the case, had the advantage of the expert knowledge of the Department of Commerce and Labor, which itself had been investigating the tobacco business for two or three years, and which reported, through the man who had made the long continued examination of the tobacco industry, that so far as brands, types of leaf tobacco used, territorial distribution of business, and all other things, *the conditions brought about were in fact competitive.*

COMMON OWNERSHIP OF STOCK.

This disintegration, as every disintegration of a so-called trust, which the Government has enforced from the case of the Northern Securities Company to the present time, left the same body of stockholders in the various companies that were nominal competitors.

This feature of the matter received the careful consideration of the parties to the litigation and the Court. The facts were that the common stockholders of The American Tobacco Company numbered more than 1,100, and the decree provided that full voting rights should be given to the preferred stockholders, numbering more than 6,000, who theretofore had had no votes, and there was thus added an even larger number to the body of controlling holders.

The disintegration, without this feature of common stockholding, was obviously impossible, unless property was to be absolutely confiscated or the creation of another so-called monopoly permitted.

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Nothing more sane or comprehensive can be said on this subject than was said by Circuit Judge Noyes in his opinion at the time the decree of November 16, 1911, was entered:

"The objection to mutual stockholding is not that competition is eliminated in principle. Potential competition necessarily exists. The same conditions do not continue indefinitely. Stockholders die and estates are divided. Differences of opinion upon values lead to sales and exchanges. Potential competition with an open market must fairly end in real competition.

"Manifest difficulties must attend the establishment of real competition between different corporations having the same body of stockholders. In the case of small corporations having few stockholders who directly participate in their management, they would be, perhaps, insuperable.

"They would decrease in proportion to the increase in the size of the corporations and the separation of the stockholders from the active management of their affairs, until—as I view it—in the case of the disintegration of a corporation having vast assets and a very large number of scattered stockholders, they would be so minimized as hardly to warrant consideration even from an economic standpoint."

INJUNCTIVE FEATURES OF THE DECREE.

In recognition of the possibility of a feigned and not a real competition, in view especially of the common stockholding, the decree of November 16, 1911, not only provided for a disintegration, but it entered continuing injunctions, some perpetual and some operative during the time when the common ownership would likely obtain, most detailed and drastic.

These injunctions run not only against The American Tobacco Company, Liggett & Myers Tobacco Company, and P. Lorillard Company, but all the companies whose stock was distributed by The American Tobacco Company, including R. J. Reynolds Tobacco Company, United Cigar Stores, the licorice companies, the foil companies, snuff companies, British-American Tobacco Company, Limited, and The Imperial Tobacco Company, Limited.

These injunctions provide that none of these companies shall directly or indirectly co-operate in the control or management of a corporation, or in fixing the price to be paid for leaf tobacco or other raw materials, or the prices to be charged for manufactured product, or for the apportionment of trade, either with respect to customers or locality; that none of them should convey businesses to another, and none of them should have the same clerical organization, or the same office or offices, that none of them should hold stock in a corporation in which another holds stock.

For five years none of them should have an officer or director who at the same time was an officer or director in another, and none of them should employ the same agent in the United States for the purchase of tobacco, or for the sale of tobacco, and none of them should acquire stock in any of the others, or make loans or otherwise extend financial aid to any of the others.

These injunctions, if obeyed, insure the reality of competition, and if disobeyed, then detection is certain and personal punishment is imminent.

If there has been a claim made by a single individual that the injunctions contained in the decree of November 16, 1911, have not been obeyed in letter and in spirit, The American Tobacco Company has not heard of it. On the leaf markets in Kentucky, Virginia, Tennessee, North Carolina and South Carolina, the competition has been and is open, notorious and extreme. In the marketing of goods it has been equally so.

THE COURSE OF BUSINESS SINCE THE DECREE.

Immediately after the entry of the decree the new companies provided for were established, the stocks directed to be distributed were distributed, the conveyances provided to be made were made.

Each new company began its business well equipped with factories, cash, leaf tobacco, and, above all, efficient and experienced tobacco men.

The R. J. Reynolds Tobacco Company, having in fact always operated independent of the control of The American Tobacco Company, continued its old management, with its factory and offices at Winston-Salem, N. C., The American Tobacco Company having no sort of interest in it.

The Liggett & Myers Tobacco Company was provided with a capable management, with its offices and its largest factory in St. Louis.

The P. Lorillard Company was provided with a capable management, with its offices and its largest factory in Jersey City.

The American Tobacco Company retained its offices, with a part of its old management, in New York.

Mr. James B. Duke, who had been President of the old The American Tobacco Company, resigned all connection in fact as well as in name, with any of the American companies, and became the principal executive officer of British-American Tobacco Company, Limited, with headquarters in London, to which place he had gone before February 28, 1912, and where he has certainly spent most of his time since that date.

CHANGES IN STOCK OWNERSHIP.

The change of stock ownership has undoubtedly progressed, as is very evident from the sales that have been reported on the Exchanges in New York by the daily newspapers and the record of the Company's transfer books.

As to the stocks of the various companies, the fluctuation in quotation prices show that different people have different ideas of their respective values.

It had already been announced that many of the twenty-nine individual defendants had disposed of all the stock of United Cigar Stores Company that they received on the distribution of that stock by The American Tobacco Company, and some time ago it was officially announced that all of them have sold, so that none of the other defendants, corporate or individual, have a dollar's interest, direct or indirect, in the United Cigar Stores Company.

EFFECTS OF COMPETITION ON PURCHASE OF RAW MATERIAL.

So far as the experience of The American Tobacco Company goes, leaf tobacco, generally speaking, has brought very high prices since the disintegration.

It is absolutely true that the decree has been obeyed in letter and in spirit, and that there has been competition vigorous and active. It is only fair to say that the high prices have not, in our judgment, resulted solely from the disintegration and the increased competition thus brought about.

The fact is that in some of the sections in which leaf tobacco grows, unfavorable weather conditions curtailed the expected crop. Undoubtedly different people connected with the leaf department of the various companies have had different views as to the probable course of prices. This condition has resulted temporarily and so far in higher prices, although prices would have been higher even without this competitive condition.

Of course, if the present high prices produce larger crops, as they will under an unalterable economic law, prices will fall by the operation of the same law. When each competitor, acting independently of all other competitors, secures his requirements, the prices will decline just as certainly as if the purchasers were not in competition at all. Competition has been actual, though, and will continue, and up to this time competitive purchasing has been coincident at least with higher prices.

WHY AND HOW THE CONSUMER CONTROLS THE TOBACCO BUSINESS.

The position of tobacco manufacturers differs materially from that of any other large corporations, in that the success of the tobacco manufacturer depends entirely on the attitude of the public toward his product.

Every jobber and every retailer knows the name of the manufacturer of every tobacco product that he handles. Every consumer knows—or may learn simply by looking at the package or inquiring of the dealer—who makes each brand of tobacco product.

If the consumer is not pleased he can instantly change to a competitive brand. He is the arbiter, the court of final appeal. If his decision is against a manufacturer, that manufacturer will have to cease business.

The householder or dweller in apartments seldom or never knows the source from which the coal that warms him and cooks his food is received.

The ultimate consumer cannot learn without infinite pains the name of the maker of the steel in his pocket knife or the steel in the apartment house in which he pays rent, or the steel in the bridge for which he pays taxes.

Do you know the name of the manufacturer of the flour used by your baker? Do you know the name of the tanner of the leather, the maker of the thread and other supplies used in your shoes? When you buy a suit of clothes, do you ask your tailor or clothing dealer the name of the manufacturer of the cloth?

In other industries, the manufacturer's product is reworked by middle men, so that its identity is lost before it reaches the ultimate consumer; or the product is used in forms not easily observable by the general public; or it is marketed in bulk, or in some form other than of easily distinguished brands.

In short, other manufacturers are not directly answerable to the public. The tobacco business is unique in that the manufacturer is always at the mercy of the ultimate consumer, who, by withdrawing his patronage, can crush any manufacturer, no matter how large he may be.

Therefore, the success of The American Tobacco Company never did depend and does not now depend on monopoly, but on the efficiency of the company, and its ability to please the public.

WHY "PRICE CUTTING" DOES NOT INCREASE THE MANUFACTURER'S BUSINESS.

Competition among tobacco manufacturers does not take the form of "price-cutting." The history of the tobacco business proves that price-cutting is not a desirable weapon to use against competitors.

Tobacco, candy, perfumes, and other products which appeal to the sense of taste or smell, are purchased invariably because of the appeal of the specific article to the individual's taste.

About the only effect of cutting the price of a high-priced perfume would be to suggest to the consumer that the perfume had been deteriorated in quality. Likewise, if a well-known eighty-cent candy was reduced to sixty cents a pound, those who had been steady purchasers of the candy would likely believe that its quality, as well as its price, had been reduced, and they would abandon it and search for another eighty-cent candy.

So it is with tobacco products. About the only effect of price-cutting is to remove a product from one class and put it into another, often with the result of destroying its value. Thus, persistent price-cutting, even by retailers on various well-known five-cent cigars, has driven them out of the five-cent class and into the three-cent class. Just as soon as they reached the three-cent class, the five-cent smoker abandoned them, and they died.

MANUFACTURERS CANNOT CONTROL PRICES CHARGED BY RETAILERS.

The retailer makes prices to meet local conditions, and the tobacco manufacturers have no power to regulate this situation.

In some cities retailers cut 15-cent cigarettes to 12 cents or 11 cents; 10-cent tobacco to three packages for 25 cents, etc., etc. The matter of prices to the consumer is entirely local, and no one but the retailer can regulate it.

Look at Pall Mall Cigarettes as an illustration of the manufacturer's lack of control over price. The American Tobacco Company advertises Pall Mall at 25 cents, and sells the cigarettes at such a price as to give the dealer an excellent profit—he promptly cuts the price to 20 cents.

It is safe to assume that most Pall Mall Cigarettes are sold at 20 cents, when, as a matter of fact, the retailer is supposed to charge 25 cents for them.

THE MOST EFFECTIVE METHODS OF COMPETITION.

However strong an old brand of tobacco may be, the manufacturer must be continually alert or his energetic competitors will take his business away from him. It is true that they will not do this by price-cutting, because that in itself will not damage his brand materially.

Their competition will take the form of arguments to consumers that they have produced a better tobacco, or they will offer to consumers inducements to buy their tobacco, which will wean them away from their old favorites.

Then, too, each year brings a large body of new smokers into existence, and the old brand, as well as the new, must fight with its competitors for the trade of these new-comers.

Consequently there is a constant struggle among tobacco manufacturers to protect their old brands and to create business for the new brands, which the manufacturer who is to successfully rival his competitors must introduce from time to time. These new brands are the result of new discoveries in the manufacture of tobacco, or a new application of some old principle in a more attractive form.

Competition in the tobacco trade, therefore, takes the form of vigorous advertising of old brands, the energetic introduction of new brands, and the devising of inducements to consumers to buy their old or new brands.

Every newspaper or magazine reader is impressed with the tremendous amount of tobacco advertising in the daily, weekly, and monthly press, evidence enough to a thoughtful man that very genuine competition exists, or the manufacturers would be saving the money which they are now pouring out in printer's ink.

INCREASE IN QUANTITY A BETTER METHOD THAN PRICE CUTTING.

One method of creating new business recently employed by the former members of The American Tobacco Company is the increase of quantity in a package of tobacco products. The results of this may be seen by any observer.

The old American Tobacco Company had a very heavy business on 10-for-10 cents cigarettes. Competitive conditions have brought into large sale Fatima Cigarettes, 20 for 15 cents, by Liggett & Myers; and have created Omar, 20 for 15 cents, by The American Tobacco Company; and Zubelda, 20 for 15 cents, by Pierre Lorillard Company.

Mascot smoking tobacco, a new creation of The American Tobacco Company to meet competitive conditions, is sold at 1½ ounces for five cents, a price heretofore unknown for tobacco of such quality.

P. Lorillard Company have brought out Stag, a five-cent tin package of smoking tobacco which bids fair to create a new element in the field.

Liggett & Myers have produced a new brand—"O U"—to fight *Mascot*.

The American Tobacco Company has brought out Red J and Black Eagle, plug tobaccos which are fighting the products of the R. J. Reynolds Tobacco Company on a quality-and-price basis.

"Between the Acts" and "St. Leger," well-known little cigar brands, became the property of the P. Lorillard Company. The American Tobacco Company has created "Piccadilly," and is fighting for the business of the Lorillard brands.

COUPONS, INSERTS, ETC., WHICH INCREASE THE VALUE GIVEN TO CONSUMER.

Various inducements to consumers have proven effective methods of competing for business. One very well known scheme is to pack a cash coupon in cigarettes. To illustrate: Prior to dissolution, the "Lord Salisbury" Cigarette was controlled (i. e., sold exclusively) by the United Cigar Stores. After dissolution it was made an "open brand" (i. e., sold to all jobbers and dealers). The American Tobacco Company places in a package four coupons, each redeemable at any tobacco store for one-half cent each. This serves as an advertisement for the brand, and at the same time reduces the price from ten cents to eight cents.

"Piedmont," a five-cent cigarette by Liggett & Myers, and "Sovereign," The American Tobacco Company's competitive brand, are fighting a battle royal. Each is now carrying a one-half-cent cash coupon. "Tokio," another American Tobacco Company brand, carries a one-half-cent coupon and a button as well.

The silk "inserts"—flags and other decorative designs—are greatly desired by women for use in pillow tops and other fancy needlework. They are expensive, so that when a genius now connected with the Lorillard Company thought of the idea of packing them in cigarette boxes he found a thing which made business. Thousands of women urge their husbands and sweethearts to smoke certain brands of cigarettes in order to secure certain silk inserts.

Silk inserts are so expensive that in the past they have never been packed in cigarettes selling at less than ten cents. Since the old members of The American Tobacco Company began fighting among themselves, the silk insert has been packed in five-cent cigarettes.

That this is a very grave item to charge up to competition is shown by the fact that the cost of silk inserts on only one five-cent brand of American Tobacco Company cigarettes amounts to \$300,000 a year.

Any observer will find abundant evidence that the tobacco business in this country today is a competitive business, each manufacturer appealing to the consumer, and so far as the products of The American Tobacco Company and the other companies that were carved out of the combination are concerned, with the consumer informed as to whose product he is buying.

INJUNCTIONS PREVENTING SECRECY OR RESTRAINT.

Not only are there injunctions against The American Tobacco Company and the other companies that heretofore formed a part of the so-called tobacco combination, in order to insure competition between them, but there are injunctions against the use of methods or instruments of

monopoly which in effect put The American Tobacco Company and the other defendants, including the new companies, Liggett & Myers Tobacco Company and P. Lorillard Company, under really a different law from that that obtains against other concerns.

After the disintegration, each of the companies was left with a tobacco business actually and technically owned by a subsidiary corporation, as, for instance, The American Tobacco Company owned all the stock of Blackwell's Durham Tobacco Company, that makes the famous "Bull" Durham tobacco, and P. Lorillard Company was left with all the stock of S. Anargyros, a New York corporation, the manufacturer of "Egyptian Deities."

By the terms of the decree, the products of these subsidiary corporations which bear the name of the manufacturer at all, must bear a statement showing the owner of their stock. Under these conditions secret ownership is impossible.

None of these tobacco companies are permitted to make it a condition, when supplying a jobber, that the jobber shall buy some other brand, thus effectually eliminating the so-called exclusive handling arrangement.

So far as The American Tobacco Company is concerned, these injunctions have been obeyed in letter and in spirit, and so far as we know they have been obeyed by everybody concerned.

PUBLICITY OF TOBACCO BUSINESS.

Not only is there publicity as to the identity of the final owner of the tobacco business, but the whole tobacco business is conducted in the open.

It is likely that four thousand traveling salesmen are now employed by the various companies which formerly constituted a part of, or were in alliance with, The American Tobacco Company, and whose respective employers are now under the terms of the injunctions referred to.

These salesmen are of necessity familiar with the policies of their respective employers, or they would be unable to intelligently do their work.

Naturally, from such large bodies of men, individuals are constantly changing their employment, and they would carry with them the news of any attempt of collusion between the companies. In one department alone, in one company, in the last six months, six or eight high priced salesmen have resigned to go to an independent concern that was never in any way connected with The American Tobacco Company.

There are over five thousand jobbers dealing directly with The American Tobacco Company, and most of them undoubtedly deal with the other tobacco manufacturing concerns that have been cut off from and carved out of The American Tobacco Company, and they are familiar with all trade arrangements.

In buying the raw material the leaf buyers of the various companies buy at open auction in the presence of crowds of competing buyers, and collusion would be impossible under such conditions.

Is it possible that sane men managing these various companies would contemplate collusive and feigned competition in the face of such an

army of witnesses, and in the teeth of injunctive provisions of a decree, disobedience to which would lead to condign punishment?

What will be the effect of the competition? No man can tell, but that the competition is real and will continue to be real is absolutely true.

MARKET VALUE OF SECURITIES.

The American Tobacco Company itself had outstanding six per cent. bonds, four per cent. bonds, six per cent. preferred stock and common stock. In view of the fact that it had been earning a large surplus, and that the common stock alone had voting power, the real and ultimate ownership may be said to have been vested in the 1,100 common stockholders.

The American Tobacco Company held in its treasury all, or a majority of the shares of various companies whose stocks were not dealt in at all. Its securities that were outstanding at the time of the disintegration had only been issued in 1904, and Government proceedings were really instituted in the spring of 1905.

The common stock of The American Tobacco Company had sold always under the shadow of an impending Government litigation, but on account of its large earnings it had had an average price of substantially over 400.

In the court proceedings looking to the disintegration, there was a most detailed statement, given under oath, as to the earnings and properties behind the various securities distributed, and the securities of the new companies formed. So that all men had an opportunity to learn for themselves the value of the properties.

After the disintegration, all of these securities sold out from under the shadow of a Government suit for dissolution, and it is well known that securities whose market value is low compared with their par value, sell for nearer their real value than those whose market value is very high.

These things explain the difference in market values in the aggregate, of what has come to the common stockholders of The American Tobacco Company, as compared with the market value of their stock before the disintegration.

The fact remains, though, that the disintegration, taking into account the necessity involved in paying off at cash and at high prices the six per cent. bonds and the four per cent. bonds of The American Tobacco Company, and taking into account the increased rate of dividend on the Liggett & Myers Tobacco Company preferred stock and the P. Lorillard Company preferred stock as compared with the old The American Tobacco Company preferred stock, entailed an actual penalty inflicted on the common stockholders of The American Tobacco Company amounting to many millions of dollars.

Buyers on the Exchanges were unwilling to pay the full value, based upon income at least, of the old The American Tobacco Company's common stock, which sold at a very high price compared with par, and which was subject to the jeopardy of an imminent or pending suit by the Government which had in it the threat of the possibility of a receivership.

They not unnaturally are willing to pay a larger amount in the aggregate, for the different things that now represent what this old stock did represent, when the imminence of the Government suit is at an end.

They undoubtedly realize that there is competition between the companies, and that competition may mean reduction of profits. They believe, also, evidently, that in the tobacco business competition, while it reduces the percentage of profit, will likely increase the volume of business to such an extent that the amount of profits of a competitor will not be diminished.

Undoubtedly, in the tobacco business, competitive efforts do increase volume of business, and whether such increase of volume will serve to maintain or increase the amount of profits in the face of the additional expense in marketing goods, remains to be seen.

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Immediately after the entry of the decree the new companies provided for were established, the stocks directed to be distributed were distributed, the conveyances provided to be made were made.

Each new company began its business well equipped with factories, cash, leaf tobacco, and, above all, efficient and experienced tobacco men.

The R. J. Reynolds Tobacco Company, having in fact always operated independent of the control of The American Tobacco Company, continued its old management, with its factory and offices at Winston-Salem, N. C., The American Tobacco Company having no sort of interest in it.

The Liggett & Myers Tobacco Company was provided with a capable management, with its offices and its largest factory in St. Louis.

The P. Lorillard Company was provided with a capable management, with its offices and its largest factory in Jersey City.

The American Tobacco Company retained its offices, with a part of its old management, in New York.

Mr. James B. Duke, who had been President of the old The American Tobacco Company, resigned all connection in fact as well as in name, with any of the American companies, and became the principal executive officer of British-American Tobacco Company, Limited, with headquarters in London, to which place he had gone before February 28, 1912, and where he has certainly spent most of his time since that date.

CHANGES IN STOCK OWNERSHIP.

The change of stock ownership has undoubtedly progressed, as is very evident from the sales that have been reported on the Exchanges in New York by the daily newspapers and the record of the Company's transfer books.

As to the stocks of the various companies, the fluctuation in quotation prices show that different people have different ideas of their respective values.

It had already been announced that many of the twenty-nine individual defendants had disposed of all the stock of United Cigar Stores Company that they received on the distribution of that stock by The American Tobacco Company, and some time ago it was officially announced that all of them have sold, so that none of the other defendants, corporate or individual, have a dollar's interest, direct or indirect, in the United Cigar Stores Company.

EFFECTS OF COMPETITION ON PURCHASE OF RAW MATERIAL.

So far as the experience of The American Tobacco Company goes, leaf tobacco, generally speaking, has brought very high prices since the disintegration.

It is absolutely true that the decree has been obeyed in letter and in spirit, and that there has been competition vigorous and active. It is only fair to say that the high prices have not, in our judgment, resulted solely from the disintegration and the increased competition thus brought about.

The fact is that in some of the sections in which leaf tobacco grows, unfavorable weather conditions curtailed the expected crop. Undoubtedly different people connected with the leaf department of the various companies have had different views as to the probable course of prices. This condition has resulted temporarily and so far in higher prices, although prices would have been higher even without this competitive condition.

Of course, if the present high prices produce larger crops, as they will under an unalterable economic law, prices will fall by the operation of the same law. When each competitor, acting independently of all other competitors, secures his requirements, the prices will decline just as certainly as if the purchasers were not in competition at all. Competition has been actual, though, and will continue, and up to this time competitive purchasing has been coincident at least with higher prices.

WHY AND HOW THE CONSUMER CONTROLS THE TOBACCO BUSINESS.

The position of tobacco manufacturers differs materially from that of any other large corporations, in that the success of the tobacco manufacturer depends entirely on the attitude of the public toward his product.

Every jobber and every retailer knows the name of the manufacturer of every tobacco product that he handles. Every consumer knows—or may learn simply by looking at the package or inquiring of the dealer—who makes each brand of tobacco product.

If the consumer is not pleased he can instantly change to a competitive brand. He is the arbiter, the court of final appeal. If his decision is against a manufacturer, that manufacturer will have to cease business.

The householder or dweller in apartments seldom or never knows the source from which the coal that warms him and cooks his food is received.

The ultimate consumer cannot learn without infinite pains the name of the maker of the steel in his pocket knife or the steel in the apartment house in which he pays rent, or the steel in the bridge for which he pays taxes.

Do you know the name of the manufacturer of the flour used by your baker? Do you know the name of the tanner of the leather, the maker of the thread and other supplies used in your shoes? When you buy a suit of clothes, do you ask your tailor or clothing dealer the name of the manufacturer of the cloth?

In other industries, the manufacturer's product is reworked by middle men, so that its identity is lost before it reaches the ultimate consumer; or the product is used in forms not easily observable by the general public; or it is marketed in bulk, or in some form other than of easily distinguished brands.

In short, other manufacturers are not directly answerable to the public. The tobacco business is unique in that the manufacturer is always at the mercy of the ultimate consumer, who, by withdrawing his patronage, can crush any manufacturer, no matter how large he may be.

Therefore, the success of The American Tobacco Company never did depend and does not now depend on monopoly, but on the efficiency of the company, and its ability to please the public.

WHY "PRICE CUTTING" DOES NOT INCREASE THE MANUFACTURER'S BUSINESS.

Competition among tobacco manufacturers does not take the form of "price-cutting." The history of the tobacco business proves that price-cutting is not a desirable weapon to use against competitors.

Tobacco, candy, perfumes, and other products which appeal to the sense of taste or smell, are purchased invariably because of the appeal of the specific article to the individual's taste.

About the only effect of cutting the price of a high-priced perfume would be to suggest to the consumer that the perfume had been deteriorated in quality. Likewise, if a well-known eighty-cent candy was reduced to sixty cents a pound, those who had been steady purchasers of the candy would likely believe that its quality, as well as its price, had been reduced, and they would abandon it and search for another eighty-cent candy.

So it is with tobacco products. About the only effect of price-cutting is to remove a product from one class and put it into another, often with the result of destroying its value. Thus, persistent price-cutting, even by retailers on various well-known five-cent cigars, has driven them out of the five-cent class and into the three-cent class. Just as soon as they reached the three-cent class, the five-cent smoker abandoned them, and they died.

MANUFACTURERS CANNOT CONTROL PRICES CHARGED BY RETAILERS.

The retailer makes prices to meet local conditions, and the tobacco manufacturers have no power to regulate this situation.

In some cities retailers cut 15-cent cigarettes to 12 cents or 11 cents; 10-cent tobacco to three packages for 25 cents, etc., etc. The matter of prices to the consumer is entirely local, and no one but the retailer can regulate it.

Look at Pall Mall Cigarettes as an illustration of the manufacturer's lack of control over price. The American Tobacco Company advertises Pall Mall at 25 cents, and sells the cigarettes at such a price as to give the dealer an excellent profit—he promptly cuts the price to 20 cents.

It is safe to assume that most Pall Mall Cigarettes are sold at 20 cents, when, as a matter of fact, the retailer is supposed to charge 25 cents for them.

THE MOST EFFECTIVE METHODS OF COMPETITION.

However strong an old brand of tobacco may be, the manufacturer must be continually alert or his energetic competitors will take his business away from him. It is true that they will not do this by price-cutting, because that in itself will not damage his brand materially.

Their competition will take the form of arguments to consumers that they have produced a better tobacco, or they will offer to consumers inducements to buy their tobacco, which will wean them away from their old favorites.

Then, too, each year brings a large body of new smokers into existence, and the old brand, as well as the new, must fight with its competitors for the trade of these new-comers.

Consequently there is a constant struggle among tobacco manufacturers to protect their old brands and to create business for the new brands, which the manufacturer who is to successfully rival his competitors must introduce from time to time. These new brands are the result of new discoveries in the manufacture of tobacco, or a new application of some old principle in a more attractive form.

Competition in the tobacco trade, therefore, takes the form of vigorous advertising of old brands, the energetic introduction of new brands, and the devising of inducements to consumers to buy their old or new brands.

Every newspaper or magazine reader is impressed with the tremendous amount of tobacco advertising in the daily, weekly, and monthly press, evidence enough to a thoughtful man that very genuine competition exists, or the manufacturers would be saving the money which they are now pouring out in printer's ink.

INCREASE IN QUANTITY A BETTER METHOD THAN PRICE CUTTING.

One method of creating new business recently employed by the former members of The American Tobacco Company is the increase of quantity in a package of tobacco products. The results of this may be seen by any observer.

The old American Tobacco Company had a very heavy business on 10-for-10 cents cigarettes. Competitive conditions have brought into large sale Fatima Cigarettes, 20 for 15 cents, by Liggett & Myers; and have created Omar, 20 for 15 cents, by The American Tobacco Company; and Zubelda, 20 for 15 cents, by Pierre Lorillard Company.

Mascot smoking tobacco, a new creation of The American Tobacco Company to meet competitive conditions, is sold at 1½ ounces for five cents, a price heretofore unknown for tobacco of such quality.

P. Lorillard Company have brought out Stag, a five-cent tin package of smoking tobacco which bids fair to create a new element in the field.

Liggett & Myers have produced a new brand—"O U"—to fight *Mascot*.

The American Tobacco Company has brought out Red J and Black Eagle, plug tobaccos which are fighting the products of the R. J. Reynolds Tobacco Company on a quality-and-price basis.

"Between the Acts" and "St. Leger," well-known little cigar brands, became the property of the P. Lorillard Company. The American Tobacco Company has created "Piccadilly," and is fighting for the business of the Lorillard brands.

COUPONS, INSERTS, ETC., WHICH INCREASE THE VALUE GIVEN TO CONSUMER.

Various inducements to consumers have proven effective methods of competing for business. One very well known scheme is to pack a cash coupon in cigarettes. To illustrate: Prior to dissolution, the "Lord Salisbury" Cigarette was controlled (i. e., sold exclusively) by the United Cigar Stores. After dissolution it was made an "open brand" (i. e., sold to all jobbers and dealers). The American Tobacco Company places in a package four coupons, each redeemable at any tobacco store for one-half cent each. This serves as an advertisement for the brand, and at the same time reduces the price from ten cents to eight cents.

"Piedmont," a five-cent cigarette by Liggett & Myers, and "Sovereign," The American Tobacco Company's competitive brand, are fighting a battle royal. Each is now carrying a one-half-cent cash coupon. "Tokio," another American Tobacco Company brand, carries a one-half-cent coupon and a button as well.

The silk "inserts"—flags and other decorative designs—are greatly desired by women for use in pillow tops and other fancy needlework. They are expensive, so that when a genius now connected with the Lorillard Company thought of the idea of packing them in cigarette boxes he found a thing which made business. Thousands of women urge their husbands and sweethearts to smoke certain brands of cigarettes in order to secure certain silk inserts.

Silk inserts are so expensive that in the past they have never been packed in cigarettes selling at less than ten cents. Since the old members of The American Tobacco Company began fighting among themselves, the silk insert has been packed in five-cent cigarettes.

That this is a very grave item to charge up to competition is shown by the fact that the cost of silk inserts on only one five-cent brand of American Tobacco Company cigarettes amounts to \$300,000 a year.

Any observer will find abundant evidence that the tobacco business in this country today is a competitive business, each manufacturer appealing to the consumer, and so far as the products of The American Tobacco Company and the other companies that were carved out of the combination are concerned, with the consumer informed as to whose product he is buying.

INJUNCTIONS PREVENTING SECRECY OR RESTRAINT.

Not only are there injunctions against The American Tobacco Company and the other companies that heretofore formed a part of the so-called tobacco combination, in order to insure competition between them, but there are injunctions against the use of methods or instruments of

monopoly which in effect put The American Tobacco Company and the other defendants, including the new companies, Liggett & Myers Tobacco Company and P. Lorillard Company, under really a different law from that that obtains against other concerns.

After the disintegration, each of the companies was left with a tobacco business actually and technically owned by a subsidiary corporation, as, for instance, The American Tobacco Company owned all the stock of Blackwell's Durham Tobacco Company, that makes the famous "Bull" Durham tobacco, and P. Lorillard Company was left with all the stock of S. Anargyros, a New York corporation, the manufacturer of "Egyptian Deities."

By the terms of the decree, the products of these subsidiary corporations which bear the name of the manufacturer at all, must bear a statement showing the owner of their stock. Under these conditions secret ownership is impossible.

None of these tobacco companies are permitted to make it a condition, when supplying a jobber, that the jobber shall buy some other brand, thus effectually eliminating the so-called exclusive handling arrangement.

So far as The American Tobacco Company is concerned, these injunctions have been obeyed in letter and in spirit, and so far as we know they have been obeyed by everybody concerned.

PUBLICITY OF TOBACCO BUSINESS.

Not only is there publicity as to the identity of the final owner of the tobacco business, but the whole tobacco business is conducted in the open.

It is likely that four thousand traveling salesmen are now employed by the various companies which formerly constituted a part of, or were in alliance with, The American Tobacco Company, and whose respective employers are now under the terms of the injunctions referred to.

These salesmen are of necessity familiar with the policies of their respective employers, or they would be unable to intelligently do their work.

Naturally, from such large bodies of men, individuals are constantly changing their employment, and they would carry with them the news of any attempt of collusion between the companies. In one department alone, in one company, in the last six months, six or eight high priced salesmen have resigned to go to an independent concern that was never in any way connected with The American Tobacco Company.

There are over five thousand jobbers dealing directly with The American Tobacco Company, and most of them undoubtedly deal with the other tobacco manufacturing concerns that have been cut off from and carved out of The American Tobacco Company, and they are familiar with all trade arrangements.

In buying the raw material the leaf buyers of the various companies buy at open auction in the presence of crowds of competing buyers, and collusion would be impossible under such conditions.

Is it possible that sane men managing these various companies would contemplate collusive and feigned competition in the face of such an

army of witnesses, and in the teeth of injunctive provisions of a decree, disobedience to which would lead to condign punishment?

What will be the effect of the competition? No man can tell, but that the competition is real and will continue to be real is absolutely true.

MARKET VALUE OF SECURITIES.

The American Tobacco Company itself had outstanding six per cent. bonds, four per cent. bonds, six per cent. preferred stock and common stock. In view of the fact that it had been earning a large surplus, and that the common stock alone had voting power, the real and ultimate ownership may be said to have been vested in the 1,100 common stockholders.

The American Tobacco Company held in its treasury all, or a majority of the shares of various companies whose stocks were not dealt in at all. Its securities that were outstanding at the time of the disintegration had only been issued in 1904, and Government proceedings were really instituted in the spring of 1905.

The common stock of The American Tobacco Company had sold always under the shadow of an impending Government litigation, but on account of its large earnings it had had an average price of substantially over 400.

In the court proceedings looking to the disintegration, there was a most detailed statement, given under oath, as to the earnings and properties behind the various securities distributed, and the securities of the new companies formed. So that all men had an opportunity to learn for themselves the value of the properties.

After the disintegration, all of these securities sold out from under the shadow of a Government suit for dissolution, and it is well known that securities whose market value is low compared with their par value, sell for nearer their real value than those whose market value is very high.

These things explain the difference in market values in the aggregate, of what has come to the common stockholders of The American Tobacco Company, as compared with the market value of their stock before the disintegration.

The fact remains, though, that the disintegration, taking into account the necessity involved in paying off at cash and at high prices the six per cent. bonds and the four per cent. bonds of The American Tobacco Company, and taking into account the increased rate of dividend on the Liggett & Myers Tobacco Company preferred stock and the P. Lorillard Company preferred stock as compared with the old The American Tobacco Company preferred stock, entailed an actual penalty inflicted on the common stockholders of The American Tobacco Company amounting to many millions of dollars.

Buyers on the Exchanges were unwilling to pay the full value, based upon income at least, of the old The American Tobacco Company's common stock, which sold at a very high price compared with par, and which was subject to the jeopardy of an imminent or pending suit by the Government which had in it the threat of the possibility of a receivership.

They not unnaturally are willing to pay a larger amount in the aggregate, for the different things that now represent what this old stock did represent, when the imminence of the Government suit is at an end.

They undoubtedly realize that there is competition between the companies, and that competition may mean reduction of profits. They believe, also, evidently, that in the tobacco business competition, while it reduces the percentage of profit, will likely increase the volume of business to such an extent that the amount of profits of a competitor will not be diminished.

Undoubtedly, in the tobacco business, competitive efforts do increase volume of business, and whether such increase of volume will serve to maintain or increase the amount of profits in the face of the additional expense in marketing goods, remains to be seen.

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